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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/792,027	03/02/2004	Patrick C. Tessier	H0005067	1380

7590 10/05/2006

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EXAMINER	
JIANG, CHEN WEN	
ART UNIT	**PAPER NUMBER**
3744	

DATE MAILED: 10/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/792,027	TESSIER ET AL.	
	Examiner	Art Unit	
	Chen-Wen Jiang	3744	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *17 July 2006*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-39* is/are pending in the application.

4a) Of the above claim(s) *5-19,21,22,24-26,30,33,35,36,38 and 39* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-4,20,23,27-29,31,32,34 and 37* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *02 March 2004* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *20041105*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

1. Applicant's election with traverse of Group I in the reply filed on 7/17/2006 is acknowledged. The traversal is on the ground(s) that where an application includes two or more otherwise properly divisible inventions that are linked by a claim which, if allowable, would prevent restriction. This is not found persuasive because the claims linked by the independent claims which are not allowable.

The requirement is still deemed proper and is therefore made FINAL.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-4,20,23,27,29,31,32,34 and 37 are rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Solomita et al. (US 2004/0034484).

Solomita et al. disclose a demand-response energy management system. Referring to Figs.1 and 14, the energy management system 1 comprises a gateway 10 also functions as a micro-controller based thermostat for the HVAC 15 over the pre-existing HVAC controls 20 by mimicking the functionality, adapter modules 30,35, network 42, temperature sense module 60

and network operator 45. The utility company, using a web-based application sends signals to the connected thermostats and changed the thermostat setting. These changes may curtail load. The control network may be wireless network. Therefore, the wireless transceiver and wireless communication circuits are inherent in the system. The utility company monitors the usage data as the data is periodically received and is able to generate messages that initiate energy saving programs. The gateway is capable of responding to demand/response commands sent from computing platforms 40. The gateway 10 logs data, transmitted from the adapter modules 30, 35 as well as data from the thermostat function that may then be uploaded to the computing platforms 40 at specific time intervals. Usage data may include, but is not limited to temperature, thermostat settings and user input commands.

4. Claims 1-3,20,23,229,31,32,34 and 37 are rejected under 35 U.S.C. 102(b) as being anticipated by Davis et al. (US 2003/0036822).

Davis et al. disclose a system and method for controlling power demand over an integrated wireless network. The system comprises user input device 322, wireless communication circuit 106,214,204, energy management controller 310, site controller 110 and appliance controller 508. Referring to Fig.5, the system is further configured to provide a thermostat setting control signal to a thermostat controlling a air conditioning unit, heating unit, heat pump unit or the like. Fig.1 presents a plurality transceivers residing at a plurality of customer premises.

5. Claims 1-4,20,23,27-29,31,32,34 and 37 are rejected under 35 U.S.C. 102(b) as being anticipated by Petite et al. (U.S. Patent Number 6,437,692).

Petite et al. disclose a system and method for monitoring and controlling remote devices. Referring to Fig.2, the system comprises computer systems 240,250, gateway 210,220, transceivers 215,213, sensor/actuator 214,216 and transceivers next to the sensor/actuator. Although the transceivers are depicted without a user interface such as a keypad, in certain embodiments of the invention the transceivers may be configured with user selectable buttons or an alphanumeric keypad. Often, the transceivers will be electrically interfaced with a sensor or actuator, such as a smoke detector, a thermostat, a security system, etc., where external buttons are not needed. Referring to Fig.3C, the actuator 380 to the assembly permits data interface 321 to apply control signals to the manual temperature control for the temperature set point, the climate control mode switch, and the system on/off switch. In this way, a remote workstation 250 or laptop 240 with WAN access (see FIG. 2) could control a home heating system from a remote location.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chen-Wen Jiang whose telephone number is (571) 272-4809. The examiner can normally be reached on Monday-Thursday from 8:00 to 6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cheryl Tyler can be reached on (571) 272-4834. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Chen-Wen Jiang
Primary Examiner